

**FREQUENTLY ASKED QUESTIONS
ABOUT CJA APPOINTMENTS AND CLAIMS**
Updated as of June 25, 2008

1. *Can my associate come to court with me and can I charge for his/her in court time?*

The regulations allow for the assistance of a partner or associate; however, if you bill for compensation, separate worksheets must be submitted for the associate or partner, and overlapped times/dates must be explained in a memorandum in support of the claim. The associate or partner must also enter an appearance with the consent of the court. On the CJA 20 form, the time is bundled in with appointed counsel's time - only the worksheets are separated.

2. *Can I bill for a law student or paralegal working at my firm?*

Yes. This is treated like any other service provider. Detailed records must be maintained and the bill must be submitted on a CJA 21 form by the paralegal. If the compensation exceeds \$500, permission of the court must be obtained for the service.

3. *If the procedure we use is very similar to the worksheet and the procedure used now, may we still use our procedure?*

No - You must use the court's generated CJA forms (CJA 20/30, 21, etc.) for claims and the court's fillable worksheets. As of July 15, 2008, any other submission will be returned to you unprocessed.

4. *Our firm's billing department has a specified billing format for submission with vouchers. May we continue to submit them with our vouchers?*

No. The court's fillable worksheet forms are required effective 7/15/08. If any other forms are used, your voucher will be returned unprocessed.

5. *Can I make photocopies of my voucher and submit those?*

Yes - the only requirement is that your signature be clearly an original, preferably in blue ink. You will no longer receive multi-part forms. All vouchers are now electronically generated and are only one page.

6. *My voucher and worksheets contain quarter hours (3.25, 6.75 etc.). Is this a problem?*

Yes. Your claims can only be processed if reported in tenths of hours (3.3, 6.7, etc.) Claims that do not conform to this method of calculation may result in modifications to your claim or your voucher being returned to you unprocessed.

7. *I made a mistake on my voucher and used “white-out.” Is that OK?*

No. We are not allowed to take any claims containing white-out on either the voucher or the worksheets. If an error is made, line through it, initial it and move on, or re-work the worksheets and/or voucher. If we receive claims with white-out on them, we will return them, unprocessed.

8. *My claim is more than \$7,000, what will happen?*

If the cumulative total COMPENSATION is greater than \$7,000, you must complete a CJA26 Supplemental information Statement which complies with the Second Circuit’s content requirement, regardless of the amount claimed on the individual voucher. Once approved at the district level, your voucher must be sent to the circuit for additional approval. This process takes 10 days to several weeks to complete. If your cumulative total is more than \$7,000 but the compensation does not exceed that amount, your claim is not considered excess and your voucher will be approved locally.

9. *I have obtained the services of an investigator or expert and the fees are more than \$500. What should I do?*

Any claim for investigators or other experts (listed in Block 13 of the CJA 21 Form), that is more than \$500, requires prior approval of the court before the claim may be processed. If you did not make a motion to incur the expenses, you must file one now, *nunc pro tunc*, get the court’s approval, then file the claim on a CJA 21 form. You must attach a copy of the court order and the expert provider must include documentation showing the dates of service, hours expended, rate charged and any allowable expenses. All motions to incur expenses are sealed and must be submitted to the Clerk’s Office with a disk containing the file in PDF format and a sealing envelope reflecting the case caption and description of the document. See paragraph 3.03 of Volume VII of the *Guide to Judiciary Policies and Procedures*, for an explanation.

10. *I have expenses that are more than \$50. What do I do?*

Any single expense greater than \$50 must be accompanied by the receipt or an affidavit from counsel explaining the claim and why there is no receipt. **EXCEPTION: if you are traveling, any single meal expense greater than \$25 must be documented with a receipt.**

11. *My expert required that I pay him/her up front before rendering the service and now I need to submit the claim. Do I include this on my CJA 20 under other expenses?*

No. You must claim the amount on a CJA 21, listing yourself as the payee, but supporting the claim with a copy of the expert's bill to you and proof that you paid the claim directly. This is not the preferred method of payment to an expert provider but it may be allowed under limited circumstances.

12. *I have an interpreter who has gone to the prison with me on more than one occasion. I receive separate invoices from her/him. Can I submit these on separate vouchers or do I have to submit everything together as one claim?*

The interpreter should submit one claim, for all dates of service to you. If you use different interpreters, each one should submit a separate claim. If you are using one interpreter and the cumulative compensation is going to exceed \$500, you are required to make a motion to the court to get approval to use the services. If you know this will happen early on in the case, make the motion and get the permission right away. This will avoid problems later on when we are trying to pay the interpreter bills.

13. *I want my vouchers paid to my firm and not to me - what do I do?*

You will be listed as the "payee" on the check but if you identify the firm as the entity which is to receive the 1099 form for IRS purposes, the firm's TIN will be noted for tax purposes. The CJA payment database will not write a check to a "firm" but it will track the payments to you but taxable to the firm.

14. *My social security number is showing up on the check stub when I wanted payment made to my firm's EIN. The firm's EIN also shows up - what do I do?*

Your social security number is your unique identifier. It will appear on any payment made to you as CJA counsel. If your firm is to receive the funds, the firm's TIN number will also be on the check stub sent by the Administrative Office.

15. *How long is it going to take for me to get my money?*

We are required to audit all claims, which involves going through every expense and compensation claim. If your voucher is fairly simple, it will take less time to process. The more complicated the voucher, the more time it will take to audit. Claims can take from a few weeks to several weeks to be paid, depending on the complexity and on whether or not the voucher has to be sent to the circuit for additional approval (all excess compensation claims).

16. Do I have to submit a memorandum in support of my voucher?

If your voucher exceeds the statutory maximum for the type of representation, you must submit a CJA 26 Supplemental Information Statement explaining why the claim is an excess claim. If you do not submit this form, your voucher will be returned to you unprocessed. If the claim is under the statutory limits, there is no need for a CJA 26.

17. I'm having difficulty in completing the CJA 26 Form. Am I permitted to resort to the Excess Compensation Memorandum or Excess Letter formats I have submitted in the past?

No. You must submit the CJA 26 Supplemental Information Statement which complies with the Second Circuit's content requirements; otherwise, your voucher will be returned unprocessed. Please refer to the CJA 26A on our website for guidance in drafting the CJA 26 Form.

18. I finished a case last year and I just realized that I never submitted my claim - may I do it now?

Yes, but you must submit a memorandum in support of the claim explaining why you are submitting it more than 45 days after the completion of your representation.

19. I want to travel outside the state to interview witnesses - can I do it and how do I get paid?

Any travel outside the jurisdiction requires a motion to approve the travel in advance. Once this is granted, a travel authorization will be issued for you instructing you on how to make the arrangements and through whom.

20. I need to subpoena witnesses for trial and I want to have a sheriff do this. Can I?

Under Local Rule 17, you are required to have the U.S. Marshals serve your subpoenas, unless the Court, by order, directs otherwise. Before making any arrangements with a private process server or sheriff, you should contact the U.S. Marshals Office and speak with Gary Dorsey, Chief Deputy U.S. Marshal.

21. My client needs clothes, a haircut and personal items so s/he looks presentable when appearing at court. I already purchased them and would like to be reimbursed. Can I claim these as expenses on my voucher?

No. These are items of a personal nature and are not reimbursable under the Criminal Justice Act.

22. *In order to get my client out on bond, his property was used as surety. I needed to have a title exam done before the U.S. Attorney's Office would accept the papers. I would like to be reimbursed and want to claim this as an expense. May I?*

No. Title examinations done pursuant to a bond agreement are considered personal to the defendant and are not reimbursable to the attorney.

23. *My client has run out of money, what can I do?*

Have the client execute a financial affidavit, file it with the court and move to be appointed CJA. Effective date will be determined by the court.

24. *I discovered that my client has some assets and I'm CJA, what do I do?*

Bring this to the attention of the court. If a finding is made that the defendant can pay all or part of the cost of representation, the court may enter an order directing contributions to the CJA fund. The defendant cannot be made to reimburse the fund as part of his/her sentence. This must be dealt with as a separate issue.

25. *I discovered that my client has some assets and I want to be retained. What do I do?*

Pursuant to the Guide to Judiciary Policies and Procedures, Vol. VII, Section 2.22 E., no appointed attorney shall accept a payment from or on behalf of the person represented without authorization by the court on a CJA 7 Form. If your client wants to retain you, you must file a motion with the court to be allowed to do this. Your client may also be expected to repay the CJA fund for costs associated with your representation prior to being retained.

26. *I was retained through sentencing, my client has run out of money and I need to be appointed CJA. What do I do?*

Pursuant to Rule 24 of the F.R.A.P., you should make a motion to proceed IFP in the district court, then move to be appointed CJA at the circuit level once the IFP is granted. If the district denies the application for IFP, you may make the motion at the USCA.

27. *I am involved in one of the large cases and we will be on trial for several weeks. I need access to a fax machine while in court. What do I do?*

Upon motion, the court will allow you to purchase a fax machine and pay for the activation of a telephone line in the courthouse, and be reimbursed for these expenses. At the end of trial, the equipment becomes the property of the Federal Defender or the court.

28. *My client was involved in two separate cases. Can I submit one voucher including both case numbers?*

No. Separate vouchers/worksheets are required for each case.

29. *My case is now on appeal. Do I continue to submit my vouchers to the District Court for processing?*

No. Vouchers for all appellate work should be mailed to the U. S. Court of Appeals for the Second Circuit, 40 Foley Square, New York, NY 10007.

30. *I handled the appeal and now the case is back for re-sentencing. Do I continue to use the voucher I had the first time?*

No - you will be provided with a new voucher. This is considered a new appointment.

31. *I was initially appointed to represent a grand jury target. My client has now been charged in a criminal matter. Do I continue to use the voucher I had the first time?*

Yes. Your appointment on the criminal case will continue on the original voucher. Please advise the presiding judge of the fact that you were previously appointed in a sealed miscellaneous case at the Initial Appearance.

32. *My client was arrested on a probation/supervised release violation. Do I continue to use the voucher I had the first time?*

No - you will be provided with a new voucher. This is considered a new appointment. If you are contacted by the client, USA or Probation, be sure to notify the court of the contact, move for re-appointment nunc pro tunc to the date of contact and submit a new CJA 23 for your client.

33. I am appointed as stand-by counsel. What do I need to do?

If there has been an attorney/client relationship established, you will need to advise the court in writing of such relationship. We cannot issue a voucher until this notification is received.

34. Do I include claims for transcripts on my CJA 20 voucher?

No. All claims for transcripts must be submitted on a CJA 24 voucher.

35. How do I report “wait time” for an in-court claim?

Time for actual hearings should be reported under the specific hearing category and should be limited to the actual time in the courtroom. If there is time spent waiting in the courtroom for a proceeding to begin, note this on your worksheets (e.g., Bond hearing, 1.5 hours [wait time .6 hours]; sentencing 3 hours [wait time 1.5 hours for defendant to be produced], etc.) These explanations are very important and will help make the auditing process go more smoothly and quickly. The wait time will be entered in the other category.

Status conferences with the judge and any time spent talking to your client in the USMS lockup should be reported in the “other” category, with the appropriate explanations.

Do not include any travel time for in-court proceedings. All travel time must be reported in Block 16d.

36. My client wishes to file for a crack cocaine reduction under Section 18:3582. Do I use my old voucher?

No. This is a new representation. There is no need for filing of a CJA 23 Financial Affidavit. The appointment begins with the filing of the first “crack” document unless a Motion for Nunc Pro Tunc Appointment is made and granted.